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2006 NOV 13 A 11: 29

AZ CORP COMMISSION  
DOCUMENT CONTROL

**BEFORE THE ARIZONA CORPORATION COMMISSION**

IN THE MATTER OF THE  
APPLICATION OF FAR WEST  
WATER & SEWER COMPANY, AN  
ARIZONA CORPORATION, FOR A  
DETERMINATION OF THE FAIR  
VALUE OF ITS SEWER UTILITY  
PLANT AND PROPERTY AND FOR  
INCREASES IN ITS RATES AND  
CHARGES FOR SEWER UTILITY  
SERVICE BASED THEREON.

DOCKET NO: WS-03478A-05-0801

**NOTICE OF FILING**

Far West Water & Sewer Company hereby files the attached Consent Order recently executed by the Company and ADEQ. With the execution of this order, all of Far West's wastewater treatment facilities are currently subject to a Consent Order with ADEQ.

DATED this 13th day of November, 2006.

FENNEMORE CRAIG, P.C.

By

*Norm D. James*

Norman D. James

Jay L. Shapiro

3003 North Central Avenue, Suite 2600

Phoenix, Arizona 85012

Attorneys for Far West Water & Sewer Company

Arizona Corporation Commission

**DOCKETED**

**NOV 13 2006**

DOCKETED BY

*nr*

1 ORIGINAL and thirteen (13) copies of the  
2 foregoing filed this 13th day of November, 2006:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington St.  
6 Phoenix, AZ 85007

7 COPIES hand delivered  
8 this 13th day of November, 2006 to:

9 Teena Wolfe  
10 Administrative Law Judge  
11 Arizona Corporation Commission  
12 1200 W. Washington St.  
13 Phoenix, AZ 85007

14 Keith Layton  
15 Staff Counsel  
16 Legal Division  
17 Arizona Corporation Commission  
18 1200 W. Washington St.  
19 Phoenix, AZ 85007

20 Daniel Pozefsky  
21 Residential Utility Consumer Office  
22 1110 W. Washington, Suite 220  
23 Phoenix, AZ 85007

24 By: 

25 1855212.1/32116.008  
26



BEFORE THE DIRECTOR OF THE  
ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

CONSENT ORDER

Far West Water & Sewer, Inc. located at 13157  
E. 44<sup>th</sup> Street, Yuma, Arizona

ADEQ Identification Number: 101816

Docket No. P-105-06

To: Far West Water & Sewer, Inc. (Far West) in its capacity as owner and/or operator of the Seasons, Section 14, Palm Shadows, Villa Royale, Del Rey, Del Oro, and Marwood Wastewater Treatment Plants (WWTPs) located in Yuma County, Arizona.

**RECITALS**

Far West acknowledges that no promise of any kind or nature whatsoever was made to induce it to enter into this Consent Order, and Far West has done so voluntarily.

Far West acknowledges that by entering into this Consent Order, it does not resolve any liability it may have for civil penalties for violations of any State or Federal environmental law.

By entering into this Consent Order, Far West does not admit to any civil or criminal liability, or waive any right including but not limited to the assertion of any defense available to Far West under applicable law. Further, Far West does not admit, and both the Arizona Department of Environmental Quality ("ADEQ") and Far West retain the right to controvert in any subsequent proceeding except a proceeding to implement or enforce this Consent Order, the validity of any Findings of Fact or Conclusions of Law contained in this Consent Order.

The undersigned representative of Far West certifies that he is fully authorized to execute this Consent Order on behalf of Far West and to legally bind Far West to this Consent Order.

Far West admits to the jurisdiction of the Director of ADEQ.

Except as to the right to controvert the validity of any Findings of Fact or Conclusion of Law contained in this Consent Order in a proceeding other than to enforce this Consent Order, Far West consents to the terms and entry of this Consent Order and agrees not to contest the validity or terms of this Consent Order in any subsequent proceeding.

PC

1  
2 **THEREFORE, IT IS HEREBY ORDERED** as follows:

3 **I. JURISDICTION**

4 The Director of ADEQ has jurisdiction over the subject matter of this action and is  
5 authorized to issue this Consent Order pursuant to the Arizona Revised Statutes ("A.R.S.") § § §  
6 49-261, 49-461, and 41-1092.07(F)(5).

7 **II. FINDINGS**

8 **THE DIRECTOR HEREBY MAKES THE FOLLOWING FINDINGS OF FACT AND**  
9 **CONCLUSIONS OF LAW:**

10 A. Findings of Fact

11 Far West owns and operates seven (7) WWTPs located in the Foothills area of  
12 Yuma, Arizona. Far West's service area, authorized under the Arizona Corporation Commission  
13 certification, covers approximately twenty four (24) square miles serving about 15,000 water and  
14 6,500 wastewater connections.

15 1. Del Oro WWTPs – Located at 11717 Omega Lane (Del Oro Site)

16 a. During 1986, Mesa Del Sol, Inc. constructed and began operation of a  
17 Santec WWTP at the Del Oro Site with a design capacity of 77,000 gallons per day (gpd).  
18 Because the actual flow to this plant was less than 20,000 gpd, ADEQ approved its coverage  
19 under a General Aquifer Protection Permit (APP) on October 29, 1997. ADEQ also issued a  
20 Reuse Permit for use of treated effluent from the Santec WWTP to irrigate the Mesa Del Sol  
21 Golf Course.

22 b. On August 9, 2001 ADEQ received a letter from Far West stating the  
23 company had accepted operational responsibility, and subsequently confirmed ownership of the  
24 Santec WWTP beginning September 30, 2001.

25 c. By September 30, 2001, flow to the Santec WWTP exceeded 20,000 gpd.  
26 Far West has not submitted an individual APP application for operation of this WWTP.

27 d. On February 6, 2003 the Reuse permit authorizing irrigation of the Mesa  
28 Del Sol Golf Course with treated effluent from the Santec WWTP expired. Far West has not  
29 submitted a renewal application, but has continued to use effluent from the Santec WWTP to  
30 irrigate the Mesa Del Sol Golf Course.

31 e. On May 19, 2003, Far West submitted to ADEQ an individual APP  
32 application for operation of a Clear Solutions WWTP with a design flow of 150,000 gpd at the

1 Del Oro Site. Although ADEQ notified Far West of deficiencies in the application, the  
2 deficiencies were not satisfactorily addressed by Far West, and the APP was never issued.

3 f. By June 1, 2004, Far West completed construction of the Clear Solutions  
4 WWTP, incorporating some items from the Santec WWTP. Far West proceeded to operate the  
5 Clear Solutions WWTP without an APP.

6 g. Because of several complaints of septage odors and effluent quality  
7 concerns from residents, ADEQ inspected the Del Oro Site during February 2006, and issued an  
8 Notice of Violation (NOV) to Far West citing operation of the Clear Solutions WWTP without a  
9 permit, providing reclaimed water for direct reuse without obtaining an APP, and emission of  
10 odorous materials in such quantities as to cause air pollution.

11 h. Recently, Far West constructed a temporary 300,000 gpd WWTP to  
12 replace both the 77,000 gpd Santec and 150,000 Clear Solutions WWTP at the Del Oro Site. Far  
13 West began operations of the new WWTP and currently operates the WWTP at an actual flow  
14 capacity of approximately 250,000 gpd. On October 3, 2006, after the WWTP was constructed  
15 and operational, Far West submitted an APP application for a 495,000 gpd WWTP. That  
16 application is under consideration by ADEQ.

17 i. ADEQ and Far West entered into a Consent Order to address capacity,  
18 operational, monitoring, reporting, and permitting issues at the Del Oro Site. The Consent Order  
19 became effective March 13, 2006. It is the intent of the parties that this Consent Order supercede  
20 and replace the previous Consent Order entered on March 13, 2006.

21 2. Villa Del Rey WWTP – Located at 12342 E. Del Rico (Del Rey Site)

22 a. During 1986, Mesa Del Sol, Inc. constructed and began operating a  
23 Santec WWTP at the Del Rey Site with a design capacity of 40,000 gpd. Because the actual  
24 flow to this plant was less than 20,000 gpd, ADEQ approved its coverage under a General APP  
25 on October 29, 1997. ADEQ also issued a Reuse Permit for use of treated effluent from the Del  
26 Rey Santec WWTP to irrigate the Mesa Del Sol Golf Course.

27 b. On August 9, 2001 ADEQ received a letter from Far West stating the  
28 company had accepted operational responsibility, and subsequently confirmed ownership of the  
29 Del Rey Santec WWTP beginning September 30, 2001.

30 c. By September 30, 2001, flow to the Del Rey Santec WWTP exceeded  
31 20,000 gpd. Far West has not submitted an individual APP application for operation of this  
32 WWTP.

1 d. The reuse permit issued to Mesa Del Sol, Inc. during February 1998 also  
2 authorized use of treated effluent from the Villa Del Rey Santec WWTP for irrigation of the  
3 Mesa Del Sol Golf course. This permit expired February 3, 2003 and has not been renewed. Far  
4 West continues to irrigate the golf course with treated effluent from the Villa Del Rey Santec  
5 WWTP.

6 e. ADEQ inspected the Del Rey Site during March 2006, and issued to Far  
7 West a NOV on March 14, 2006 citing Far West for discharging without an APP, and providing  
8 reclaimed water for reuse from the Villa Del Rey WWTP without individual APP coverage.

9 3. Villa Royale WWTP - Located at 14,000 E. 14<sup>th</sup> Street (Villa Royale Site)

10 a. During 1986, Mesa Del Sol, Inc. constructed and began operating a  
11 10,000 gpd Santec WWTP at the Villa Royale Site. Because the flow to this plant was less than  
12 20,000 gpd, ADEQ approved its coverage under a General APP on October 29, 1997. ADEQ  
13 also issued a Reuse Permit for use of treated effluent from the Villa Royale Santec WWTP to  
14 irrigate the Mesa Del Sol Golf Course.

15 b. On August 9, 2001 ADEQ received a letter from Far West stating the  
16 company had accepted operational responsibility, and subsequently confirmed ownership of this  
17 Villa Royale WWTP beginning September 30, 2001.

18 c. The reuse permit issued to Mesa Del Sol, Inc. during February 1998, also  
19 authorized use of treated effluent from the Villa Royale Santec WWTP for irrigation of the Mesa  
20 Del Sol Golf course. This permit expired February 3, 2003 and has not been renewed. Far West  
21 continues to irrigate the Mesa Del Sol Golf Course with effluent from the Villa Royale Santec  
22 WWTP.

23 d. ADEQ inspected the Villa Royale Site during March 2006, and issued a  
24 March 14, 2006 NOV citing Far West for providing reclaimed water for reuse from the Villa  
25 Royale Santec WWTP without individual APP coverage.

26 4. Section 14 WWTP - Located at 12651 S. Avenue 14E (Section 14 Site)

27 a. On November 30, 2001, ADEQ issued to Far West an APP for operation  
28 of the Section 14 WWTP at a design flow rate of 150,000 gpd. The APP was amended on April  
29 29, 2002, but that amendment did not include an increase in the design flow rate.

30 b. On March 25, 2003, ADEQ issued Far West coverage under the Type 2  
31 Reclaimed Water General Permit authorizing the company to reuse effluent for irrigation of the  
32 Section 14 Golf Course, and for dust control and other construction uses.

1 c. In January, 2005, ADEQ issued Far West a NOV citing various dates on  
2 which the Section 14 WWTP exceeded the APP discharge limit of 10 mg/l for total nitrogen.

3 d. In March, 2006, ADEQ inspected the Section 14 WWTP and issued to Far  
4 West a NOV citing additional dates on which the WWTP exceeded the APP discharge limit for  
5 total nitrogen. Neither the January 2005 nor the March 2006 NOVs has been resolved.

6 5. **Palm Shadows WWTP – Located at 9700 E. 40<sup>th</sup> Street (Palm Shadows Site)**

7 a. On April 14, 1999, ADEQ issued Far West an APP for the Palm Shadows  
8 WWTP, permitting a design flow of 200,000 gpd. The effluent from the Palm Shadows WWTP  
9 is disposed of by evaporation and percolation.

10 b. On May 18, 2001, ADEQ issued Far West a NOV citing dates on which  
11 the Palm Shadows WWTP exceeded the APP discharge limit of 10 mg/l for total nitrogen, and  
12 for failure to notify ADEQ of the violations. ADEQ closed the NOV on February 19, 2002 after  
13 Far West demonstrated compliance by implementing corrective measures and submitting a letter  
14 describing the measures implemented.

15 c. During March 2006, ADEQ inspected the Palm Shadows Site and issued  
16 Far West a NOV citing violation of the APP discharge limit for total nitrogen, and failure to  
17 conduct verification sampling. In response, Far West submitted a March 29, 2006 letter that did  
18 not address the total nitrogen violations, but outlined the reason verification sampling was not  
19 done. The March 2006 NOV remains unresolved.

20 6. **Seasons WWTPs – Located at 10301 E 10<sup>th</sup> Street (Seasons Site)**

21 a. On December 24, 1998, ADEQ issued an individual APP for the Seasons  
22 WWTP, permitting a design flow of 50,000 gpd. The effluent from the Seasons WWTP is  
23 disposed of by evaporation and percolation.

24 b. On January 3, 2005, ADEQ issued Far West a NOV citing violation  
25 of the APP discharge limit of 10 mg/l for nitrogen.

26 c. In 2005, Far West expanded the capacity of the Seasons WWTP from  
27 50,000 gpd to 150,000 gpd without seeking a significant amendment of the APP.

28 d. In March 2006, ADEQ inspected the Seasons WWTP and issued to Far  
29 West a March 14, 2006 NOV citing operation of the WWTP at a flow of 150,000 gpd without  
30 first obtaining a significant APP amendment from ADEQ.

31 7. **Marwood WWTP – Located at 14,00 E. 14<sup>th</sup> Street (Marwood Site)**

32 a. On August 30, 1994, APP issued an individual APP for the Marwood

1 WWTP with a permitted design flow of 180,000 gpd. ADEQ amended the APP on December  
2 21, 1998 to authorize increased design flow of 340,000 gpd.

3 b. On July 4, 1997, ADEQ issued to Far West a Reclaimed Water Reuse  
4 permit authorizing the use of treated effluent for golf course irrigation. This permit was renewed  
5 August 2002 for a period of five (5) years.

6 c. On August 15, 2002, ADEQ issued Far West an amended APP  
7 classifying the plant as producing Class B effluent for reuse.

8 d. On March 14, 2006, ADEQ issued Far West a NOV citing violations of  
9 the APP discharge limits at the Marwood WWTP for turbidity and fecal coliform, and emission  
10 of odorous materials in violation of the air quality regulations. ADEQ will close the NOV  
11 because the turbidity and fecal coliform limits provided in the APP do not apply to this WWTP.

12 B. Conclusions of Law

13 1. Each WWTP owned and operated by Far West is a "Facility" pursuant to A.R.S. §  
14 49-201(17).

15 2. Far West is a "Person" pursuant to A.R.S. § 49-206 (26).

16 3. Del Oro WWTPs

17 a. By operating the 150, 000 gpd Clear Solutions WWTP without an APP,  
18 Far West violated A.R.S. § 49-241, which requires that a person who discharges or who owns or  
19 operates a facility that discharges first obtain an APP.

20 b. By operating the Santec WWTP in excess of 20,000 gpd without an  
21 individual APP, Far West violated A.R.S. § 49-241, which requires that a person who discharges  
22 or who owns or operates a facility that discharges first obtain an APP.

23 c. By providing treated effluent for irrigation of the Mesa Del Sol Golf  
24 Course without first obtaining an individual APP, Far West violated A.A.C. R18-9-704(A),  
25 which requires that a sewage facility owner or operator provide reclaimed water for direct reuse  
26 only under an individual APP amended under A.A.C. R18-9-703(C)(2).

27 d. By allowing the emission of odor from the Del Oro WWTP, which  
28 unreasonably interfered with the comfortable enjoyment of life or property of members of the  
29 community, Far West violated A.A.C. R18-2-730(D), which prohibits any person from emitting  
30 odorous or gaseous materials from equipment, operations or premises in such quantities or  
31 concentrations as to cause air pollution.  
32



1           4.     Villa Del Rey WWTP

2               a.     By operating the Santez WWTP in excess of 20,000 gpd without an  
3 individual APP, Far West violated A.R.S. § 49-241, which requires that a person who discharges  
4 or who owns or operates a facility that discharges first obtains an APP.

5               b.     By providing treated effluent for irrigation of the Mesa Del Sol Golf  
6 Course without first obtaining an individual APP, Far West violated A.A.C. R18-9-704(A),  
7 which requires that a sewage facility owner or operator provide reclaimed water for direct reuse  
8 only under an individual APP amended under A.A.C. R18-9-703(C)(2).

9           5.     Villa Royale WWTP

10              a.     By providing treated effluent for irrigation of the Mesa Del Sol Golf  
11 Course without first obtaining an individual APP, Far West violated A.A.C. R18-9-704(A),  
12 which requires that a sewage facility owner or operator provide reclaimed water for direct reuse  
13 only under an individual APP amended under A.A.C. R18-9-703(C)(2).

14           6.     Section 14 WWTP

15              a.     By discharging effluent with total nitrogen concentrations in excess of 10  
16 mg/l, Far West violated APP #P-105014, which includes a discharge limit of 10 mg/l for total  
17 nitrogen.

18           7.     Palm Shadows WWTP

19              a.     By discharging effluent with total nitrogen concentrations in excess of 10  
20 mg/l, Far West violated APP #P-103608, which includes a discharge limit of 10 mg/l for total  
21 nitrogen.

22              b.     By failing to collect verification samples after being notified of discharge  
23 limit exceedances, Far West violated APP #P-103608, Part II(C)(2)(2), which requires that the  
24 permittee conduct verification sampling within five (5) days of becoming aware of the  
25 exceedance of an Alert Level or Discharge Limit.

26           8.     Seasons WWTP

27              a.     By making physical changes to the Seasons WWTP that increased design  
28 flow from 50,000 gpd to 100,000 gpd without an approved significant APP amendment, Far  
29 West violated A.A.C. R18-9-A211(B)(2)(b), which requires a significant APP amendment for a  
30 physical change or change in method of operation of a sewage treatment facility that is permitted  
31 for 500,000 gpd or less when the change increases its design flow treatment capacity by 10% or  
32 more.

1                   b.     By discharging in excess of 50,000 gpd of effluent, Far West violated Part  
2 IV Table 1 of APP No.P-103618, which provides a discharge limit of 50,000 gpd.

3                                   **III. COMPLIANCE SCHEDULE**

4 **THE DIRECTOR HEREBY ORDERS** and Far West agrees to comply with the provisions of  
5 this Consent Order as follows:

6           A.     Prior to beginning construction and/or installation activities at any site identified  
7 in Section II. A of this Consent Order, unless otherwise approved by ADEQ in writing, or  
8 expressly provided in this Consent Order, Far West shall obtain all required approvals, permits,  
9 licenses, including Section 208 conformance under A.A.C. Title 18, Chapter 5, Article 3, from  
10 the appropriate authorities.

11           B.     Within thirty (30) calendar days of the effective date of this Consent Order, Far  
12 West shall submit an odor control program to ADEQ for review that addresses odor concerns  
13 throughout the collection system, lift stations, and WWTPs at all sites identified in Section II.A  
14 of this Consent Order. This odor control program shall be designed to ensure that odorous or  
15 gaseous materials are not generated in such a manner as to interfere with the comfortable  
16 enjoyment of life or property by members of the community.

17           C.     Within ninety (90) calendar days of the effective date of this Consent Order, Far  
18 West Shall implement the odor control program, and submit to ADEQ documentation pertaining  
19 to how this program was implemented, and how it will be monitored and maintained.

20           D.     Within thirty (30) days of the effective date of this Consent Order, Far West shall  
21 submit to ADEQ an area wide map that clearly shows all areas and units connected to the  
22 collection systems for all WWTPs described in Section II of this Consent Order.

23           E.     **Del Oro WWTPs**

24                   1.     Within forty five (45) calendar days of the effective date of this Consent  
25 Order, Far West shall complete installation and begin operation of the temporary 300,000 gpd  
26 Membrane Bioreactor (MBR) WWTP to produce at least Class A effluent, and submit  
27 documentation to ADEQ verifying that this task has been completed. As part of the installation  
28 of the 300,000 MBR WWTP, Far West shall incorporate equipment it deems necessary from the  
29 77,000 gpd Santec and 150,000 gpd Clear Solutions WWTPs at the Del Oro Site.

30           Class A effluent standards shall be based on the following criteria:

31                   a.     Five-day BOD - less than 30 mg/l (30-day) average, and less than 45 mg/l  
32 (7-day average);

1                   b.     TSS - less than 30 m/l (30-day) average, and less than 45 mg/l (7-day  
2 average);  
3                   c.     pH - to be maintained between 6.0 and 9.0 standard units;  
4                   d.     Fecal coliform - non detect in four of the last seven daily samples;  
5                   e.     Fecal coliform - a single sample maximum concentration should be less  
6 than 23 cfu/100 ml.  
7                   f.     Turbidity - 24-hour average of filtered effluent should be less than two  
8 NTUs or less;  
9                   g.     Turbidity - At any time filtered effluent does not exceed five NTUs.  
10                  2.     Beginning the month in which this Consent Order becomes effective, and  
11 on a monthly basis thereafter, until issuance by ADEQ of an APP authorizing a design flow of  
12 495,000 gpd at the Del Oro WWTP, Far West shall collect representative effluent samples and  
13 have them analyzed by an Arizona state certified laboratory for the Class A effluent parameters  
14 listed above plus the following: nitrate, nitrite, ammonia and TKN, and submit the analytical  
15 results to ADEQ by no later than the fifteenth day of each succeeding month.  
16                  3.     Within ninety (90) calendar days after the effective date of this Consent  
17 Order, Far West shall submit to ADEQ:  
18                   a.     An administratively complete APP application for operation of the new  
19 300,000 gpd MBR WWTP;  
20                   b.     An administratively complete application for coverage under the Type 2  
21 Reclaimed Water General Permit authorizing reuse of treated effluent for irrigation purposes.  
22                   c.     An administratively complete APP application for closure of the 77,000  
23 gpd Santec WWTP, and the 150,000 gpd Clear Solution WWTP. Far West shall complete all  
24 closure activities with this APP application within ninety (90) days of ADEQ's approval of the  
25 associated closure plan. Should ADEQ issue to Far West a deficiency letter(s) regarding  
26 Paragraphs III.E.3.a through c. above, Far West shall satisfy the conditions of such deficiency  
27 letter(s) within the stated deadline(s).  
28                  4.     Until such time as Far West obtains from ADEQ an individual APP for  
29 operation of a WWTP with a design flow of 495,000 gpd, prior to adding new connections to the  
30 Del Oro Collection System, Far West shall submit a written request to ADEQ for connection  
31 approval. Far West shall include in this request the number of connections, their discharge

1 volume, and assessment of the impact of the additional discharge on the operation of the WWTP  
2 and effluent quality.

3 F. Villa Del Rey WWTP and Villa Royale WWTP

4 1. Within ninety (90) calendar days of the effective date of this Consent  
5 Order, Far West shall submit to ADEQ an administratively complete Notice of Intent (NOI), on a  
6 form approved by ADEQ, pursuant to A.A.C. R18-9-A301(B) and A.A.C. R18-9-E301, seeking  
7 Construction Authorization under the Type 4 General APP, for expansion of the Del Oro  
8 Collection System. The Del Oro Collection System expansion shall include new lift stations and  
9 force mains where the Villa Del Rey and Villa Royale WWTPs are located, to pump raw sewage  
10 from the areas serviced by the Villa Del Rey and Villa Royale WWTPs to the Del Oro WWTP.  
11 Should ADEQ request additional information and/or data to process the NOI, Far West shall  
12 submit such additional information and/or data by the deadline provided by ADEQ.

13 2. Within ninety (90) calendar days of receipt of Construction Authorization  
14 from ADEQ, Far West Shall complete expansion of the Del Oro Collection System, and ensure  
15 that expansion conforms to the plans and documents approved by ADEQ in the Construction  
16 Authorization.

17 3. Within thirty (30) calendar days of completing expansion of the Del Oro  
18 Collection System, Far West shall submit to ADEQ an administratively complete request for  
19 Discharge Authorization pursuant to A.A.C. R18-9-A301(D)(f). Should ADEQ request any  
20 additional information and/or data to determine whether the Del Oro Collection System  
21 expansion conforms to the terms of the Type 4 General APP, Far West shall submit to ADEQ  
22 such information and/or data by the deadline provided by ADEQ. Far West shall not begin  
23 operation of the expanded sections of the Del Oro Collection System prior to receipt of the  
24 Discharge Authorization from ADEQ.

25 4. Within ninety (90) calendar days of the effective date of this Consent  
26 Order, Far West shall submit to ADEQ an administratively complete APP application for closure  
27 of the Villa Del Rey WWTP pursuant to A.R.S. § 49-252. Should ADEQ request additional  
28 information and/or data to process the APP application, Far West shall submit such additional  
29 information and/or data by the deadline provided by ADEQ. Far West shall complete all closure  
30 requirements associated with the Villa Del Rey WWTP by no later than ninety (90) calendar  
31 days after receipt of ADEQ's written approval of the closure plans submitted with its APP  
32 application, or sixty (60) calendar days after beginning operation of the Del Oro Collection

1 System, whichever occurs later, and submit written notification to ADEQ confirming such  
2 completion.

3 5. Within sixty (60) calendar days of beginning operation of the Collection  
4 System, Far West shall close the Villa Royale WWTP pursuant to A.A.C. R18-9-A306(A)(1),  
5 which requires that Far West performs the following:

- 6 a. Remove material that may contribute to a continued discharge; and  
7 b. Eliminate, to the greatest degree practical, any reasonable probability of  
8 further discharge from the facility and of exceeding any Aquifer Water Quality Standard at the  
9 applicable point of compliance.

10 Upon completion of this task, Far West shall submit written notification to ADEQ  
11 confirming its completion.

12 G. Section 14 WWTP

13 1. Within thirty (30) calendar days of the effective date of this Consent Order,  
14 Far West shall submit to ADEQ on a form prescribed by ADEQ, a Request to Expedite third  
15 party review of an APP application, pursuant to A.R.S. §§ 49-241.02(D) and 49-203(C). Far  
16 West agrees to pay any additional fees associated with a third party expedited review of its APP  
17 application. Within this same thirty day period, Far West shall submit to ADEQ a request for a  
18 minor modification to the Section 14 WWTP APP authorizing the installation of the appropriate  
19 technology that would bring the Section 14 WWTP in compliance with its total nitrogen APP  
20 limit. Far West shall install such appropriate technology within sixty (60) days of receipt of the  
21 modified APP and submit to ADEQ written documentation confirming this task has been  
22 completed.

23 2. Within ninety (90) calendar days of the effective date of this Consent Order,  
24 Far West shall submit to ADEQ an administratively complete APP application for expedited  
25 review for a significant modification to its current APP, to authorize expansion of the design  
26 flow of the WWTP from 150,000 gpd to a 1,300,000 gpd. Far West shall submit to ADEQ any  
27 additional information and/or data requested by ADEQ within the deadline provided by ADEQ.

28 3. Within (200) calendar days of the effective date of this Consent Order, Far  
29 West shall submit to ADEQ an administratively complete Notice of Intent (NOI), on a form  
30 approved by ADEQ, pursuant to A.A.C. R18-9A301(B) and A.A.C. R-18-9-E301, seeking  
31 Construction Authorization for expansion of the Section 14 Collection System. The expansion  
32 shall include a new lift station, force main and associated structures, devices and appurtenances

1 to pump raw sewage from the area serviced by the Palm Shadows WWTP to the Section 14  
2 WWTP. If ADEQ requests additional information and/or data to process the NOI, Far West  
3 shall submit such additional information and/or data by the deadline provided by the deadline  
4 provided by ADEQ.

5 4. Within sixty (60) calendar days of receipt of Construction Authorization  
6 from ADEQ, Far West shall complete expansion of the Section 14 Collection System and ensure  
7 that the expansion conforms to the plans and documents approved by ADEQ in the Construction  
8 Authorization.

9 5. Within thirty (30) calendar days of completing expansion of the Section  
10 14 Collection System, Far West shall submit to ADEQ an administratively complete request for  
11 Discharge Authorization pursuant to A.A.C. R18-9-A301(D)(f). Should ADEQ request any  
12 additional information and/or data to determine whether the expanded sections of the Section 14  
13 Collection System conform to the terms of the Type 4 General APP, Far West shall submit to  
14 ADEQ such information and/or data by the deadline provided by ADEQ. Far West shall not  
15 commence operation of the expanded sections of the Section 14 Collection System prior to  
16 receipt of the Discharge Authorization from ADEQ.

17 H. **Palm Shadows WWTP**

18 1. Within thirty (30) calendar days of the effective date of this Consent  
19 Order, Far West shall submit to ADEQ a request for a minor modification to the Palm Shadows  
20 WWTP APP authorizing installation of the appropriate technology that would bring the Palm  
21 Shadows WWTP in compliance with its total nitrogen APP limit. Far West shall install such  
22 appropriate technology within sixty (60) days of receipt of the modified APP, and submit to  
23 ADEQ written documentation confirming this task has been completed.

24 2. Within two hundred (200) calendar days of the effective date of this  
25 Consent Order, Far West shall submit to ADEQ a Closure Plan for the Palm Shadows WWTP  
26 pursuant to A.A.C. R18-9-A306 and Part II.E of APP No. P-103608. Should ADEQ request  
27 additional information and/or data to process the Closure Plan, Far West shall submit such  
28 additional information and/or data by the deadline provided by ADEQ.

29 3. Within ninety (90) calendar days of the receipt of ADEQ's written  
30 approval of the Closure Plan, Far West shall complete all closure requirements associated with  
31 the Palm Shadows WWTP.

1                   4.     Beginning on the effective date of this Consent Order, unless approved by  
2 ADEQ, Far West shall not construct any new connections to the existing Palm Shadows WWTP  
3 collection system.

4           I.     Seasons WWTP

5               1.     Within thirty (30) calendar days of the effective date of this Consent  
6 Order, Far West shall submit to ADEQ an application to amend APP No. P-103618 authorizing  
7 an increase in design flow of the Seasons WWTP from 50,000 gpd to 150,000 gpd pursuant to  
8 A.A.C. R18-9-A211(B). Should ADEQ request additional information and/or data to process the  
9 application, Far West shall submit such additional information and/or data by the deadline  
10 provided by ADEQ. Within this same thirty (30) calendar day period, Far West shall submit to  
11 ADEQ a request for a minor modification to the Seasons WWTP APP authorizing installation of  
12 the appropriate technology that would bring the Seasons WWTP in compliance with its total  
13 nitrogen APP limit. Far West shall install such appropriate technology within sixty (60) days of  
14 receipt of the modified APP, and submit to ADEQ written documentation confirming this task  
15 has been completed.

16               2.     Until such time as ADEQ issues to Far West the amended APP for  
17 operation at a design flow of 150,000 gpd, Far West shall operate the Seasons WWTP with a  
18 maximum design flow of 70,000 gpd, and meet all other terms and conditions of APP No. P-  
19 103618.

20               3.     If the amended APP does not provide a schedule for completion of the  
21 expansion of the Seasons WWTP, Far West shall complete all approved upgrades within ninety  
22 (90) days of the issuance of the amended APP.

23                               IV. STATUS REPORTS

24           A.     Far West agrees to submit a written status report to ADEQ every ninety (90)  
25 calendar days from the effective date of this Consent Order, until termination of this Consent  
26 Order. Each written status report shall describe what measures have been taken under Section III  
27 of this Consent Order, and shall certify when compliance with the requirements of Section III of  
28 this Order has been achieved. Each report shall be accompanied by evidence of compliance  
29 including, as appropriate, submittal of documents, photographs or copies of any other supporting  
30 information that Far West deems necessary.

1 B. ADEQ will review the status reports and relay any disputes, in writing, to Far  
2 West. Far West shall incorporate all required modifications, changes or other alterations, as  
3 requested by ADEQ, within a reasonable time specified b ADEQ.

4 **V. VIOLATIONS OF ORDER/STIPULATED PENALTIES**

5 A. Under A.R.S. § 49-262, violation of this Consent Order subjects Far West to civil  
6 penalties of up to \$25,000 per day per violation. ADEQ and Far West agree that the calculation  
7 of civil penalties for violation of this Consent Order would be very difficult.

8 B. ADEQ and Far West therefore agree that if Far West fails to comply with any  
9 requirement of this Consent Order, Far West shall pay a stipulated penalty pursuant to the  
10 schedule below:

<u>Period of Failure to Comply</u>	<u>Penalty Per Day of Violation</u>
12 1 <sup>st</sup> to 30 <sup>th</sup> day	\$3,000 per day per violation
13 31 <sup>st</sup> to 60 <sup>th</sup> day	\$4,000 per day per violation
14 After 60 days	\$5,000 per day per violation

15 C. Except as otherwise provided herein, stipulated penalties shall begin to accrue on  
16 the day that performance is due or that a violation of this Consent Order occurs and shall  
17 continue to accrue until correction of the act of noncompliance is completed. Neither issuance  
18 by ADEQ nor receipt by Far West of a Notice of Violation of the terms and conditions of this  
19 Consent Order are conditions precedent to the accrual of stipulated penalties.

20 D. Stipulated penalty payments shall be made pursuant to a civil settlement (e.g.,  
21 Consent Judgment) with ADEQ filed in a court of competent jurisdiction. If ADEQ and Far  
22 West are unable to reach agreement for payment of stipulated penalties under a civil settlement,  
23 or if Far West fails to make payment of stipulated penalties due under a civil settlement, ADEQ  
24 may file a civil action seeking the maximum civil penalty allowed under Federal or State law for  
25 violation of this Consent Order.

26 E. The stipulated penalties required by this Consent Order shall be in addition to  
27 other remedies or sanctions available to ADEQ by reason of any failure by Far West to comply  
28 with the requirements of Federal or State laws. The payment of stipulated penalties shall not  
29 relieve Far West from compliance with the terms and conditions of this Consent Order or Federal  
30 or State laws, nor limit the authority of the State to require compliance with the Consent Order or  
31 State law.  
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1 **VIII. SITE ACCESS**

2 ADEQ may at any time, upon presentation of credentials to authorized personnel on duty,  
3 enter upon the premises at the Facility for the purpose of observing and monitoring compliance  
4 with the provisions of this Consent Order. This right of entry shall be in addition to, and not in  
5 limitation of or substitution for, ADEQ's rights under applicable law.

6 **IX. CORRESPONDENCE**

7 All documents, materials, plans, notices, or other items submitted as a result of this  
8 Consent Order shall be transmitted to the addresses specified below:

9  
10 To ADEQ:

11 Arizona Department of Environmental Quality  
12 Water Quality Division  
13 Water Quality Enforcement Unit  
14 Attention: Robert Casey, Manager  
15 1110 West Washington Street  
16 Phoenix, Arizona 85007-2935  
17 Telephone: 602-771-4614  
18 Email: rc2@azdeq.gov  
19

20 To Far West:

21 Paula Capestro, President  
22 Far West Water & Sewer, Inc.  
23 12486 Foothills Blvd.  
24 Yuma, Arizona 85367  
25

26 Submissions to ADEQ as a result of this Consent Order shall be deemed submitted upon receipt.

27 **X. RESERVATION OF RIGHTS**

28 A. This Consent Order is based solely upon currently available information. If  
29 additional information is discovered which indicates that the actions taken under this Consent  
30 Order are or will be inadequate to protect human health, safety, or the environment, or to  
31 conform with applicable federal or state laws, ADEQ shall have the right to require further  
32 action.

33 B. ADEQ shall have the right: to pursue civil penalties for violations of any and all  
34 violations of A.R.S. Title 49, or the rules promulgated thereunder, occurring before entry of this  
35 Consent Order; to disapprove of work performed by Far West that fails to comply with this  
36 Consent Order; to take enforcement action for any and all violations of this Consent Order; and

1 to take enforcement action for any and all violations of A.R.S. Title 49, or the rules promulgated  
2 thereunder, occurring after the entry of this Consent Order.

3 **XI. SEVERABILITY**

4 The provisions of this Consent Order are severable. If any provision of this Consent  
5 Order is declared by a court of law to be invalid or unenforceable, all other provisions of this  
6 Consent Order shall remain in full force and effect.

7 **XII. MODIFICATIONS**

8 Any modifications of this Consent Order shall be in writing and must be approved by  
9 both Far West and ADEQ.

10 **XIII. EFFECTIVE DATE**

11 The effective date of this Consent Order shall be the date this Consent Order is signed by  
12 ADEQ and Far West. If such signatures occur on different dates, the later date shall be the  
13 effective date of this Consent Order.

14 **XIV. PARTIES BOUND**

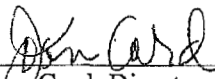
15 No change in ownership, corporate status, or partnership status relating to the subject of  
16 this Consent Order will in any way alter the responsibilities of Far West under this Consent  
17 Order. Far West will be responsible, and will remain responsible for carrying out all activities  
18 required under this Consent Order.

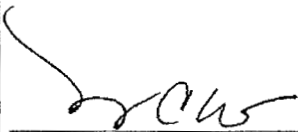
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**XV. TERMINATION**

The provisions of this Consent Order shall be deemed satisfied and this Consent Order shall be terminated upon receipt of written notification from ADEQ that Far West has demonstrated, to the satisfaction of ADEQ, that all of the terms of this Consent Order have been completed. Any denial of a request for termination from Far West will be in writing and describe which terms of the Consent Order have not been completed to the satisfaction of ADEQ. ADEQ reserves the right to terminate this Consent Order unilaterally at any time for any reason. Any termination will include a written explanation of the reason(s) for termination.

ISSUED this 21<sup>st</sup> day of October, 2006

  
\_\_\_\_\_  
Joan Card, Director  
Water Quality Division  
Arizona Department of Environmental Quality

  
\_\_\_\_\_  
Nancy Wrona, Director  
Air Quality Division  
Arizona Department of Environmental Quality

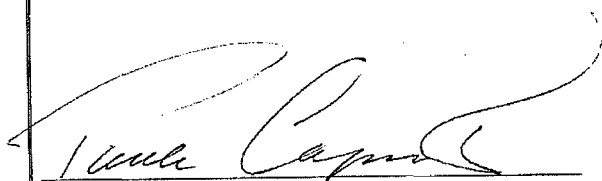
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**CONSENT TO ORDER**

The undersigned, on behalf of Far West, hereby acknowledges that he has read the foregoing Consent Order in its entirety, agrees with the statements made therein, consents to its entry and issuance by the Arizona Department of Environmental Quality, and agrees that Far West will abide by the same and waive any right to appeal therefrom.

DATED this 25 day of October, 2006



Paula Capestro, President  
Far West Water & Sewer, Inc.



1 ORIGINAL of the foregoing Consent Order was filed this 31 day of October, 2006  
2 with:

3 Judith Fought, Hearing Administrator  
4 Office of Administrative Counsel  
5 Arizona Department of Environmental Quality  
6 1110 West Washington Street  
7 Phoenix, Arizona 85007-2935  
8

9 COPY of the foregoing Consent Order was sent certified mail, return receipt requested, this 31  
10 day of October, 2006, to:

11 Paula Capestro, President  
12 Far West Water & Sewer, Inc.  
13 12486 Foothills Blvd.  
14 Yuma, Arizona 85367  
15

16 COPIES of the foregoing Consent Order were sent by regular/interdepartmental mail, this 31  
17 day of October, 2006 to the following:

18 Mark Horlings, Civil Unit Chief  
19 Environmental Enforcement Section  
20 Office of the Attorney General  
21 1275 West Washington Street  
22 Phoenix, Arizona 85007  
23

24 Cynthia S. Campbell, Manager, WQCS, ADEQ

25 Robert Casey, Manager, WQEU, ADEQ

26 Michele Robertson, Manager, Groundwater Section, ADEQ

27 Asif Majeed, Manager, Wastewater, Recharge & Reuse Unit, Groundwater Section, ADEQ

28  
29 Becky Brooks, Director  
30 Yuma County Health Department  
31 2200 West 28<sup>th</sup> Street  
32 Yuma, Arizona 85364  
33

34 Kathi Moore, Chief  
35 CWA Compliance Office (WTR-7)  
36 U.S. EPA, Region IX  
37 75 Hawthorne Street  
38 San Francisco, CA 94105  
39  
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